

**REMARKS**

Claims 1-36 were present for examination in the above-identified application. By the present amendment, claims 2, 14, and 25-30 have been canceled subject to Applicant's right to continue the prosecution of the canceled claims in a continuation. Claims 1, 3-13, 15-24, and 31-36 remain in the present application.

The drawings have been objected to under 37 C.F.R.1.84(p) as containing numbers and reference characters that are not plain and legible. Enclosed is a substitute Fig. 6B containing plain and legible numbers and reference characters.

Of the claims remaining in the present application, claims 1, 3, 6, and 9-12 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Heald et al. (US 5,272,382). The other claims have been rejected under 35 U.S.C. § 103(a). More specifically, the § 103(a) rejections are as follows: (1) claims 4, 5, 7, and 8 are rejected over Heald et al. in view of Afshar et al. (US 5,313,516); (2) claims 13, 15, 18, 21-24, 31, and 32 are rejected over Furst (US 5,844,328) in view of Mercadante et al. (US 5,889,465); (3) claims 16, 17, 19, and 20 are rejected over Furst in view of Mercadante et al. and further in view of Heald et al. and further in view of Afshar et al.; (4) claim 33 is rejected over Furst in view of Mercadante et al. and further in view of Heald et al. and further in view of Johnstone (US 4,390,953); (5) claim 34 is rejected over Furst in view of Mercadante et al. and further in view of Heald et al. and further in view of Sandelman et al. (US 6,211,782); and (6) claims 35-36 are rejected over Furst in view of Mercadante et al. and further in view of Sandelman et al.

Independent claims 1, 13, 31, and 35 have been amended.

**CLAIMS 1 AND 3-12 ARE NOT ANTICIPATED OR OBVIOUS**

The Examiner has rejected independent claim 1 and dependent claims 3, 6, and 9-12 as being anticipated by Heald et al. Heald et al. is directed generally to a power supply for a computer system. (Col. 1, ll. 16-17.) In Heald et al., a power supply controller monitors the operating power of the computer system and switches the system to a secondary power source (battery power) when it detects that the power received from the primary power source is outside a certain range. (Col. 1, ll. 17-20; col. 2, ll. 37-40.) Heald et al. also discloses, after the system

switches to battery power, shutting off certain non-essential components of the system in order to conserve battery power. (Col. 1, ll. 21-24; col. 2, ll. 26-29.)

Further, the system discloses providing an alert notification to a system manager facility, or other location, in certain circumstances. (Col. 6, l. 67 to col. 7, l. 6; col. 8, ll. 17-28.) The system provides an alert when there is a loss of power requiring switching to battery power and may communicate this alert by dialing a phone number and generating a voice message. (Col. 6, l. 67 to col. 7, l. 6; col. 8, ll. 17-28.) Other alert conditions disclosed in Heald et al. that may warrant notification are server subsystem failure and excessive server temperature. (Col. 7, ll. 58-63; col. 9, ll. 40-43.)

Claim 1 has been amended for clarity. Claim 1 recites that the claimed system monitors the back-up batteries when they are not in use and provides notification when one or more back-up batteries fail and need to be replaced, not when there is a loss of primary power or other such condition. More specifically, claim 1 recites a processor “operative to monitor the output voltage of the one or more batteries when the one or more batteries are not supplying power, to actuate the telephone line interface to dial out a stored telephone number when the output voltage falls below a predetermined level indicating battery failure, and to actuate the voice control chip to play a stored message after dialing out the stored telephone number.”

In contrast, Heald et al. nowhere addresses the need for back-up battery replacement or providing notification when batteries need to be replaced. The only alert notifications disclosed in Heald et al. are loss of primary power requiring switching to battery power, server subsystem failure, and excessive server temperature. (Col. 6, l. 62 to col. 7, l. 6; col. 7, ll. 48-63.) Heald et al. only discloses conserving battery power after a loss of primary power is experienced. (col. 1, ll. 21-24; col. 2, ll. 26-29); it does not address battery replacement.

In fact, Heald et al. teaches away from providing notification when batteries fail and need to be replaced. Heald et al. discloses trickle charging a back-up battery and states that “during normal operation when host [primary] power is on, a trickle charge continually keeps the battery 100 at optimal charge levels.” (Col. 21, ll. 56-58.) Heald et al. therefore suggests that there is no concern with battery failure during normal operation of the system, *i.e.*, non-battery operation, for which notification may be required. There is simply no teaching or suggestion in Heald et

al. of the possibility of battery failure during the normal operation of the disclosed system, requiring battery replacement. Thus, independent claim 1 and dependent claims 3, 6, and 9-12 are not anticipated by Heald et al.

The Examiner has also rejected claims 4, 5, 7, and 8 as being obvious over Heald et al. in view of Afshar et al. Claims 4, 5, 7, and 8 depend from amended claim 1. Afshar et al. does not address back-up batteries and therefore does not teach or suggest notification in the event of back-up battery failure. Accordingly, for the reasons stated above, Applicant respectfully submits that the rejection as to these dependent claims is overcome.

### **CLAIMS 13, 15-24, AND 31-36 ARE NOT OBVIOUS**

The Examiner has rejected independent claims 13, 31, and 35 and their dependent claims as obvious in light of Mercadante et al. in combination with other references. Mercadante et al. is directed generally to a power service unit suited to supply electric power for use by a fiber optic modulator/demodulator unit. (Col. 1, ll. 12-14.) In Mercadante et al., the power service unit supplies power from a primary source, switches to a secondary source (battery back-up) in the event of failure of the primary source, and provides notification when there is a disruption in the operation of the service unit. (Col. 1, ll. 14-17; col. 4, ll. 49-55.) With regard to claims 13, 31, and 35, the Examiner states that “Mercadante discloses a battery backup system (figure 1) with a battery charging circuitry 20, battery sensing circuitries (RY1-RY3), and an auto dialer for notifying a remote operator in case loss of primary power source or battery voltage drops below a predetermined level (column 6, lines 41-45).”

In rejecting claims under 35 U.S.C. § 103 the Examiner has the burden of establishing a *prima facie* case of obviousness. Three criteria must be met to establish such a case. First, there must be some suggestion or motivation to modify the reference. Second, there must be some reasonable expectation of success. Both the suggestion to make the combination and the reasonableness of the expectation must be found in the art. Third, the reference must teach all the claim limitations of the claims.

Claims 13, 31, and 35 have been amended for clarity. Like claim 1 above, claims 13 and 35 have been amended to recite that the claimed system monitors the back-up batteries when they

are not in use and provides notification when one or more back-up batteries fail and need to be replaced, not when there is a disruption in actual supply of power. More specifically, claims 13 and 35 recites a processor “operative to monitor the output voltage of the one or more batteries when the one or more batteries are not supplying power, to actuate the telephone line interface to dial out a stored telephone number when the output voltage falls below a predetermined level indicating battery failure, and to actuate the voice control chip to play a stored message after dialing out the stored telephone number.” Similarly, claim 31 recites a method of monitoring and providing notification back-up batteries, including the step of “detecting, when the one or more batteries are not supplying power, if the output voltage of the one or more batteries falls below a predetermined level indicating battery failure.”

In contrast, Mercadante et al. teaches providing notification when there is a loss in the supply of primary power or in the supply of secondary (back-up) power. More specifically, Mercadante et al. discloses that, during normal (non-battery) operation, a charger/rectifier 20 is the primary power source supplying DC power (converted from external AC power) and that, during normal operation, the charger/rectifier 20 also charges the batteries. (Col. 6, ll. 23-30.) If there is a disruption in power supply from the charger/rectifier 20, the system provides notification of the disruption and switches to battery operation. (Col. 6, ll. 31-40.) Mercadante et al. teaches monitoring the back-up batteries when they are operating and supplying power and providing notification when the batteries are beginning to run low during battery operation. (Col. 6, ll. 41-45.)

In fact, Mercadante et al. teaches away from monitoring back-up batteries when they are not in use and providing notification when they need to be replaced. Mercadante et al. discloses charging the back-up batteries during non-battery operation and states that “[a]s long as the charger rectifier 140 supplies a power in excess of 48 volts DC, the batteries 80 are maintained in a charged state.” (Col. 6, ll. 28-30.) Mercadante et al. therefore suggests that there is no concern with battery failure during non-battery operation, for which notification may be required. There is simply no teaching or suggestion in Mercadante et al. of the possibility of battery failure during the normal operation of the disclosed system, requiring battery replacement.

None of the other references cited by the Examiner teach or suggest notification in the event of back-up battery failure. The combined references therefore do not teach all of the limitations of the claims. Thus, independent claims 13, 31, and 35 and dependent claims 15-24, 32-34, and 36 are not obvious in light of Mercadante et al. in combination with the other cited references.

Further, these claims (claims 13, 13, and 35 and their dependent claims) all are directed to either (1) a combination garage door operator and battery back-up monitoring and automatic notification system, or (2) a method of operating a garage door operator having a battery back-up circuit. The only reference cited by the Examiner that mentions garage door operators is Furst, which in one sentence lists electric garage door opener as a household or structural appliance that may be affected by a power outage. (Col. 1, ll. 22-27.) Furst does not teach or suggest any sort of notification; the Examiner acknowledges that Furst specifically fails to teach a telephone line interface for automatically dialing a predetermined telephone number and playing a pre-stored voice message. None of the other references mention garage door operators in any way. Thus, there is no motivation in the references to combine their teachings to arrive at the combination garage door operator system claims or the garage door operator method claims

In view of the foregoing, Applicant requests that claims 1, 3-13, 15-24, and 31-36 be allowed.

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The Commissioner is hereby authorized to charge any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 06-1135. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1135.

Respectfully submitted,

7/14/04  
Date

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